Senate Bill No. 1451

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Passed the Senate   August 23, 2004

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Secretary of the Senate

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Passed the Assembly   August 9, 2004

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Chief Clerk of the Assembly

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This bill was received by the Governor this ⎯⎯⎯⎯ day of

⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯, 2004, at ⎯⎯⎯ o'clock ⎯M.

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Private Secretary of the Governor

CHAPTER _____

An act to add Title 1.81.4 (commencing with Section 1798.98) to Part 4 of Division 3 of the Civil Code, relating to privacy.

SB 1451, Figueroa.   Privacy guarantees.

Existing law requires a business to ensure the privacy of a customer's records and personal information, as defined. Existing law also prohibits a person or entity from publicly posting or displaying an individual's social security number. Existing federal law, the Gramm-Leach-Bliley Act, requires financial institutions to provide a notice to consumers relative to the use by the financial institution of nonpublic personal information, and in that regard authorizes consumers to direct that the information not be shared with nonaffiliated 3rd parties. The California Financial Information Privacy Act requires a financial institution, as defined, to provide a specified written form to a consumer relative to the sharing of the consumer's nonpublic personal information and authorizes a consumer to direct that the information not be shared with certain entities. Existing law also establishes standards for the collection, use, and disclosure of information gathered in connection with insurance transactions.

This bill would prohibit a person who receives protected information, as specified, from sharing or disclosing the information in a manner that would be prohibited by a privacy law, as specified. The bill would also provide that the person would be civilly liable for sharing or disclosing that information, as specified.

The people of the State of California do enact as follows:

SECTION 1.   It is the intent of the Legislature to do all of the following:

(a) Reaffirm the importance of the laws of this state and federal laws protecting the privacy of confidential, personal information.

(b) Ensure that confidential information regarding a California resident that is legally protected within California will be

protected when it is used by parties located outside the State of California.

(c) Ensure that any person located outside the State of California who has access to legally protected confidential information regarding a resident of California and who violates a law governing the confidentiality of that information shall be subject to legal action in the courts of this state for the violation of that law.

SEC. 2. Title 1.81.4 (commencing with Section 1798.98) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 1.81.4. PRIVACY GUARANTEES

1798.98. (a) For purposes of this section, "privacy law" means any of the following:

(1) Part 2.6 (commencing with Section 56) of Division 1.

(2) Title 1.81.1 (commencing with Section 1798.85).

(3) Title 1.82 (commencing with Section 1799).

(4) Division 1.2 (commencing with Section 4050) of the Financial Code.

(5) Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

(b) The following shall apply to any person who receives protected information as part of a transaction that originated with an entity required to comply with a privacy law listed in subdivision (a) and who is not subject to any of those provisions:

(1) That person shall not share or otherwise disclose the information in a manner that would be prohibited by a privacy law as applicable to the party from whom the information is received.

(2) That person shall be liable in an action for civil damages under this section in the courts of this state, brought by a resident of this state who has been harmed by a violation of this subdivision, regardless of where the violation occurs. For purposes of this paragraph, that person shall be deemed to consent to jurisdiction in the courts of this state.

(c) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(d) Nothing in this section shall modify the application of a privacy law to a person or entity that is already subject to that privacy law.

Approved ——————————————————, 2004

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                                    Governor